

REMARKS

This paper is submitted in response to the non-final official action dated March 10, 2009, wherein (a) claims 1-31 were pending; (b) the examiner requested applicants' cooperation in correcting any errors in the specification and drawings; (c) claims 1-31 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite; and (d) claims 1-31 were rejected under 35 U.S.C. §102(b) as anticipated by either one of DE 102 32 904 A1 ("the '904 reference") or DE 101 19 104 A1 ("the '104 reference").

By way of the foregoing, the specification is amended, claims 1-21 are canceled, claim 22 has been amended, and claims 32-51 have been added.

Support for the amendments to the specification can be found in Fig. 2. Claim 22 is merely amended for clarity. Support for new claim 32 can be found throughout the detailed description of the specification in combination with originally filed claims 1 and 12. Support for each of new claims 33-51 can be found in each of originally-filed claims 2-11 and 13-21, respectively. No new matter is added.

Claims 22-51 are pending.

Favorable consideration of the application, as amended, is solicited.

AMENDMENTS TO THE SPECIFICATION

Paragraphs [0033] and [0034] of the published application are amended to correct various typographical errors. Specifically, the originally-filed specification incorrectly identified the "beam" with reference numeral 18, while Fig. 2 identifies the beam with reference numeral 19. Similarly, the originally-filed specification incorrectly identified the "sleeve" with reference numeral 19, while Fig. 2 identifies the sleeve with reference numeral 18. Appropriate correction has been made.

Additionally, in the official action, the examiner set forth the suggested guidelines for laying out the specification of the application. Applicants respectfully submit that the Substitute Specification submitted with the Preliminary Amendment on January 23, 2006, substantially conforms to these suggested guidelines.

Therefore the applicants respectfully request the examiner to acknowledge the acceptability of the pending specification.

REJECTIONS UNDER 35 U.S.C. §112

In the official action, the examiner indicated that claims 1 and 22 lacked antecedent basis for the phrase “the positioning...” Additionally, the examiner indicated that the use of “and/or” and “via” in claims 1 and 22 is unclear. Claim 1 is canceled herein, thereby overcoming these rejections as they pertain to claim 1.

With respect to claim 22 and the phrase “the positioning,” paragraph [0005] of the published patent application describes that measured values determined via a reference body should correspond as well as possible to measured values of cooked products arranged on insertion levels of a rack frame such that the reference body should be arranged as close as possible to the cooked products. Paragraph [0007] of the published patent application discloses that sensor positioning devices are known in the prior art that permit positioning of a sensor with at least one degree of freedom. According to claim 22, the positioning device is attached to the rack by at least two joining pieces. Therefore, it should be clear that by “positioning” a reference body for measuring values in a cooking appliance, the same has to be fixedly attached to the oven rack at a location as close as possible to products cooked within the cooking appliance. To emphasize this, claim 22 is amended to remove the word “the,” which preceded the word “positioning.”

Regarding the phrase “and/or,” a person having ordinary skill in the art commonly understands this phrase to mean “at least one of” a subsequently listed set of items. Accordingly, claim 22 is also amended to delete “and/or” and instead recite “at least one of...”

Finally, with respect to the use of the term “via,” a person having ordinary skill in the art understands that such a term generally means to assist something. For example, paragraph [0003] of the published patent application describes that reference bodies are frequently arranged in a cooking appliance to control a cooking process within the appliance in order to be able to determine corresponding

measured values of the cooking process via these reference bodies, i.e., with the help of these reference bodies. As such, the term “via” is clear and definite.

Reconsideration and withdrawal of the outstanding indefiniteness rejections are respectfully requested.

REJECTIONS UNDER 35 U.S.C. §102

Independent claim 22 is directed to a cooking appliance comprising, in part, a rack frame, a reference body, and a positioning device for positioning the reference body. The positioning device is attached to the rack frame via two joining pieces which extend essentially vertically upward or downward from a base frame or upper frame of the frame. This configuration provides a user-friendly optimal arrangement of components, wherein the reference body can be positioned in the immediate vicinity of products to be cooked, while avoiding undesired contamination.

Independent claim 32 is directed to an oven rack for a cooking appliance comprising, in part, a frame, a reference body, a positioning device similar to that which is recited in claim 22, and a sensor or a cooking process probe arranged in or on the reference body to measure values of a cooking process. So configured, the oven rack not only provides the benefits of the positioning device discussed above, but also the benefit of detecting parameters of the reference body for adapting the cooking process to optimize the cooking result.

Neither the ‘904 reference nor the ‘104 reference teaches or suggests each and every feature recited in claims 22 and 32.

The ‘904 Reference

The ‘904 reference, which is commonly-owned with the present application, describes a rack frame with a heat accumulator. Heat accumulating material is integrated into the rack frame in such a way that the frame and, in particular the lower parts of the frame, function as a heat accumulator. The ‘904 reference does not disclose a reference body, as recited in claims 22 and 32, or a sensor or a cooking process probe, as recited in claim 32. Moreover, the applicants submit that it would not be obvious to modify the apparatus disclosed in the ‘904 reference to arrive at the claimed invention because there is no suggestion to do so.

Accordingly, claims 22-51 are novel and non-obvious over the '904 reference.

The '104 Reference

The '104 reference discloses a rack frame 1, 2 for food carriers 3, 4, comprising trays 3 and dishes 4, with heating elements 5 arranged at or beneath the trays 3 when inserted into the rack frame 1, 2. The trays 3 can be provided with one or more temperature sensors 8 to measure a temperature for monitoring, documenting, and controlling the temperature of food within the dishes 4. It is important to note that the food carriers 3, 4 are not fixed to the rack frame 1, 2, but rather are insertable in the region of insertion planes 2.

In contrast, claim 22 defines the positioning device 13 as being attached to the rack frame, and claim 32 defines the positioning device as being attached to the oven rack. The positioning devices 13 recited in claims 22 and 32 are fixed to the respective rack frame and oven rack by means of at least two joining pieces 12 which, in addition, are defined as extending essentially vertically upward or downward from the base frame 3 or upper frame 4. The '104 reference does not disclose or suggest this combination of features.

Moreover, it would not be obvious to modify the '104 reference to include these feature because the '104 reference actually teaches away from a positioning device being attached to a rack frame, or oven rack, by providing the food carriers 3, 4 with temperature sensors 8 at every dish location. This requires not only a large number of temperature sensors 8, but also leads to a very complicated controlling of the cooking processes as the output values of all the temperature sensors 8 have to be evaluated. With the present invention, only one sensor 16 within a reference body 15 is positioned by a positioning device which is part of the rack frame 1. This is a simple structure that leads to a simple control of the cooking appliance, the likes of which are not known or obvious in view of the '104 reference.

In light of the foregoing, neither the '904 reference nor the '104 reference teaches each and every feature of claims 22 and 32 of the present application. Moreover, it would not be obvious to modify the '904 or the '104 reference to arrive at the claimed invention.

Reconsideration and withdrawal of the outstanding anticipation rejections is respectfully requested.

CONCLUSION

If there are any issues that the examiner believes may be remedied by telephone conference, please feel free to contact the undersigned at (312) 474-6300.

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Respectfully submitted,

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